

# ILLINOIS REGISTER

## Rules and Regulations of Governmental Agencies



ALAN J. DIXON  
Secretary of State

(INDEX DIVISION)

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TABLE OF CONTENTS

OFFICE OF THE SAVINGS AND LOAN COMMISSIONER

Page

Proposed adoption of rules and regulations  
implementing "An Act to Provide for the  
Regulation of Mortgage Bankers" .....1

## NOTICE

**AS OF THIS DATE THE ILLINOIS REGISTER, PUBLISHED PURSUANT TO THE ILLINOIS ADMINISTRATIVE PROCEDURE ACT, IS APPLICABLE ONLY TO THE FOLLOWING STATUTES AND DEPARTMENTS IN PART.**

**EFFECTIVE JANUARY 1, 1978 THE ACT WILL APPLY TO ALL STATE AGENCIES.**

<b>Department on Aging</b> 1. Illinois Act on the Aging (Chapter 23, Paragraph 6195.021)	11. Illinois Water Well Construction Code (Chapter 111½, Paragraph 116.118)	(Chapter 114½, Paragraph 117.1)
<b>Capital Development Board</b> 1. Capital Development Board Act (Chapter 127, Paragraph 783a)	12. Illinois Water Well Pump Installation Code (Chapter 111½, Paragraph 116.159)	2. Land Surveyors Act (Chapter 133, Paragraph 36.1)
<b>Department of Children and Family Services</b> 1. Act creating the Department of Children and Family Services (Chapter 23, Paragraph 5004)	13. Private Sewage Disposal Licensing Act (Chapter 111½, Paragraph 116.324)	3. Business of Horseshoeing (Chapter 66, Paragraph 14h)
<b>Dangerous Drug Commission</b> 1. "Dangerous Drug Abuse Act" (Chapter 91½, Paragraph 120.13)	14. Control and supervision over public water supplies (Chapter 111½, Paragraph 121b1)	4. Detection of deception examiners (Chapter 38, Paragraph 202-7.1)
<b>Commission on Delinquency Prevention</b> 1. Illinois Commission on Delinquency Prevention Act (Chapter 23, Paragraph 2710)	15. Impounding Dispositions of stray animals (Chapter 111½, Paragraph 133.1)	5. Detectives and Detective Agencies (Chapter 38, Paragraph 201-4b)
<b>State Board of Education</b> 1. School Code (Chapter 122, Paragraph 1A-71)	16. Hospital Licensing Act (Chapter 111½, Paragraph 147.2)	6. Dental surgery and dentistry (Chapter 91, Paragraph 57b)
<b>Board of Higher Education</b> 1. An act in relation to the Board of Higher Education (Chapter 144, Paragraph 193)	17. Ambulatory Surgical Treatment Center Act (Chapter 111½, Paragraph 157-8.10a)	7. Certified Shorthand Reporters Act (Chapter 37, Paragraph 757.5)
<b>Department of Financial Institutions</b> 1. Community currency exchanges (Chapter 16½, Paragraph 49.3)	18. Illinois Migrant Labor Camp Law (Chapter 111½, Paragraph 185.13B)	8. Collection Agency Act (Chapter 121½, Paragraph 809.22)
<b>Department of Insurance</b> 1. Illinois Insurance Code (Chapter 73, Paragraph 1019.1)	19. Radiation Protection Act (Chapter 111½, Paragraph 218.15)	9. Beauty Culture Act (Chapter 16-3/4, Paragraph 18b)
<b>Liquor Control Commission</b> 1. An act relating to alcoholic liquors (Chapter 43, Paragraph 108a)	20. Personal radiation monitoring service (Chapter 111½, Paragraph 230.14)	10. Barber Law (Chapter 16-3/4, Paragraph 14.40a)
<b>Department of Mental Health</b> 1. Mental Health Code of 1967 (Chapter 91½, Paragraph 12-10) 2. An Act codifying the powers and duties of the Department of Mental Health and Developmental Disabilities (Chapter 91½, Paragraph 100-5) 3. Mentally deficient persons (Chapter 91½, Paragraph 213) 4. Community Mental Health Act (Chapter 91½, Paragraph 308.1) 5. Alcoholism and Intoxication Treatment Act (Chapter 91½, Paragraph 510.01) 6. Specialized Living Centers Act (Chapter 91½, Paragraph 603.06)	21. Uniform Hazardous Substances Act (Chapter 111½, Paragraph 253b)	11. Athletic Exhibition Registration Act (Chapter 10 4/5, Paragraph 108.1)
<b>Department of Public Aid</b> 1. Illinois Public Aid Code (Chapter 23, Paragraph 12-13)	22. Illinois Poison Prevention Packaging Act (Chapter 111½, Paragraph 297)	12. Pharmacy Practice Act (Chapter 91, Paragraph 55.3-1)
<b>Department of Public Health</b> 1. An act in relation to Public Health (Chapter 111½, Paragraph 22) 2. Prophylactic medicines to indigent rheumatic fever patients (Chapter 111½, Paragraph 22.2) 3. Prevention of certain communicable diseases (Chapter 111½, Paragraph 22.13) 4. Chronic renal diseases (Chapter 111½, Paragraph 22.33.01) 5. Anti-polio vaccine (Chapter 111½, Paragraph 22b) 6. Nursing homes, sheltered care homes and homes for the aged (Chapter 111½, Paragraph 35.16b) 7. Vital Records Act (Chapter 111½, Paragraph 73-3.1) 8. Registration of marriages, divorces and annulments (Chapter 111½, Paragraph 73-53.1) 9. Hospitals to render hospital emergency service (Chapter 111½, Paragraph 86.6) 10. Illinois Plumbing License Law (Chapter 111½, Paragraph 116.62)	23. Youth Camp Act (Chapter 111½, Paragraph 549.21a)	13. Optometric Practice Act (Chapter 91, Paragraph 105.6-1)
	24. Illinois Blood Bank Act (Chapter 111½, Paragraph 608-108)	14. Nursing Act (Chapter 91, Paragraph 35.36a)
	25. Blood Labeling Act (Chapter 111½, Paragraph 620-10)	15. Medical Practice Act (Chapter 92, Paragraph 1a)
	26. Illinois Clinical Laboratory Act (Chapter 111½, Paragraph 628-108)	16. Nursing Home Administrators Licensing Act (Chapter 111½, Paragraph 35.133)
	27. Registration of laser systems (Chapter 111½, Paragraph 709)	17. Physical Therapy Registration Act (Chapter 91, Paragraph 22.3-1)
	28. Mobile Home and Mobile Home Park Act (Chapter 111½, Paragraph 732.1)	18. Physician's Assistants Practice Act (Chapter 91, Paragraph 212.1)
	29. Recreational Area Licensing Act (Chapter 111½, Paragraph 786.1)	19. Practice of Podiatry (Chapter 91, Paragraph 73b)
	30. Regulation of mass gatherings (Chapter 111½, Paragraph 911.1)	20. Professional Engineering Act (Chapter 48½, Paragraph 37.1)
	31. Lead Poisoning Prevention Act (Chapter 111½, Paragraph 1313.1)	21. Medical Corporation Act (Chapter 32, Paragraph 648)
	32. Prevention of Developmental Disabilities (Chapter 111½, Paragraph 2113)	22. Professional Service Corporation Act (Chapter 32, Paragraph 415-18)
	33. Swimming Pool and Bathing Beach Act (Chapter 111½, Paragraph 1224.1)	23. Psychologist Registration Act (Chapter 91½, Paragraph 408.1)
	34. Structural Pest Control Act (Chapter 111½, Paragraph 2223.1)	24. Sanitarian Registration Act (Chapter 111½, Paragraph 574)
	35. Bulk Milk Tank Operators Licensing Act (Chapter 111½, Paragraph 239.04-4)	25. Public Accounting (Chapter 110½, Paragraph 26.1)
	36. Illinois Food Drug and Cosmetic Act (Chapter 111½, Paragraph 522.1)	26. Social Workers Registration Act (Chapter 23, Paragraph 5302.1)
	37. Prevent the preparation, manufacture, packing, storing or distribution of food intended for sale, or the sale of food under insanitary, unhealthful or unclear conditions (Chapter 56½, Paragraph 77.1)	27. Real Estate Brokers and Salesmen License Act (Chapter 114½, Paragraph 125)
	38. Distribution of pasteurized milk and pasteurized milk products (Chapter 56½, Paragraph 130.1)	28. Structural Engineering Act (Chapter 131½, Paragraph 3b)
	39. Grade A Milk and Grade A Milk Products (Chapter 56½, Paragraph 217.1)	29. Tree experts (Chapter 5, Paragraph 125)
	40. Family Practice Residency Act (Chapter 111½, Paragraph )	30. Veterinary Medicine and Surgery Practice Act (Chapter 91, Paragraph 124.27)
	41. Program for the care of persons suffering from hemophilia (Chapter 111½, Paragraph )	31. Weather Modification Control Act (Chapter 146 3/4, Paragraph 33)
	42. Structural Pest Control Act (Chapter 111½, Paragraph 2225)	32. Funeral directing and embalming (Chapter 111½, Paragraph 73.21a)
	43. High Blood Pressure Control Act (Chapter 111½, Paragraph )	33. Architectural Act (Chapter 10½, Paragraph 4b)
	44. Health Facilities Planning Act (Chapter 111½, Paragraph 1168)	34. Controlled Substances Act (Chapter 56½, Paragraph 1501.1)
	45. Home Health Agency Licensing Act (Chapter 111½, Paragraph )	<b>Savings and Loan Commission</b> 1. Regulation of mortgage bankers (Chapter 16½, Paragraph )
<b>Department of Registration and Education</b> 1. Real Estate Brokers and Salesmen License Act	<b>Board of Vocational Rehabilitation</b> 1. Vocational Rehabilitation of Disabled Persons (Chapter 23, Paragraph 3434a)	

NOTICE BY THE OFFICE OF THE SAVINGS AND LOAN COMMISSIONER  
FOR THE STATE OF ILLINOIS  
OF THE ADOPTION OF RULES AND REGULATIONS IMPLEMENTING  
"AN ACT TO PROVIDE FOR THE REGULATION OF MORTGAGE BANKERS"

NOTICE

PLEASE TAKE NOTICE THAT pursuant to Section 5(g) of "AN ACT to provide for the regulation of mortgage bankers" (Illinois Revised Statutes, Chapter 16 $\frac{1}{2}$ , Paragraph 605[g]) and Section 5 of the Illinois Administrative Procedure Act (Illinois Revised Statutes, Chapter 127, Paragraph 1005), the Commissioner of Savings and Loan Associations for the State of Illinois will formulate and issue "ARTICLE XV of the Rules and Regulations, Office of the Savings and Loan Commissioner," which "ARTICLE XV" will implement "AN ACT to provide for the regulation of mortgage bankers."

PLEASE TAKE FURTHER NOTICE THAT pursuant to Section 6 of the Illinois Administrative Procedure Act (Illinois Revised Statutes, Chapter 127, Paragraph 1006), the final text of said "ARTICLE XV" will be adopted and issued by the Commissioner of Savings and Loan Associations and filed with the Secretary of State, State of Illinois on January 6, 1978. Said "ARTICLE XV" will become effective on January 16, 1978 pursuant to Section 6(b) of the Illinois Administrative Procedure Act (Illinois Revised Statutes, Chapter 127, Paragraph 1006[b]).

DESCRIPTION OF THE SUBJECT  
MATTER AND ISSUES INVOLVED

The proposed "ARTICLE XV" of the "Rules and Regulations, Office of the Savings and Loan Commissioner," the full text of which is forth hereafter, involves the following subject matter and issues:



1. Procedure for mortgage bankers operating in the State of Illinois to become licensed as required by "AN ACT to provide for the regulation of mortgage bankers;"
2. Procedure for the determination of the National Residential Mortgage Foreclosure Rate, the Statewide Maximum Foreclosure Rate and the Illinois Residential Foreclosure Rate;
3. Procedure for the conduct of public hearings in contested matters affecting the rights of mortgage bankers operating in Illinois;
4. Procedure for the Mortgage Banking Board to make recommendations to the Commissioner;
5. Procedure for the conduct of an Audit to be performed at the direction of the Commissioner in case of an excessive Illinois Residential Mortgage Foreclosure Rate; and
6. Procedure to be following in the filing of a REPORT OF MORTGAGE ACTIVITY of each mortgage banker operating in the State of Illinois.

TIME, PLACE AND MANNER IN WHICH ALL INTERESTED PERSONS MAY PRESENT THEIR VIEWS CONCERNING THE ADOPTION OF ARTICLE XV OF THE RULES AND REGULATIONS, OFFICE OF THE COMMISSIONER OF SAVINGS & LOAN ASSOCIATIONS IMPLEMENTING "AN ACT TO PROVIDE FOR THE REGULATION OF MORTGAGE BANKERS."

On December 13, 1977 in Room 526, State of Illinois Building, 160 North La Salle Street, Chicago, Illinois from 9:30 a.m. to 12:30 p.m. and from 1:30 p.m. to 5:00 p.m., the Commissioner of Savings and Loan Associations will conduct a hearing with respect to the aforesaid ARTICLE XV of the Rules and Regulations, Office of the Commissioner of Savings and Loan Associations, the full text of which is set forth hereafter.

At that time and place, interested persons may appear and orally present their views, comments, data and arguments under oath concerning the promulgation of this proposed ARTICLE XV, Rules and Regulations of the Commissioner of Savings and Loan Associations, orally under oath on December 13, 1977 must

submit a notice of his or her intention to do so in writing to the Commissioner of Savings and Loan Associations. Such notice may be filed in person or by mail with the Commissioner of Savings and Loan Associations, either at the State of Illinois Building, 160 North La Salle Street, Room 526, Chicago, Illinois 60601 or at 701 State Office Building, Springfield, Illinois 62706. Such notice must be received by the Commissioner no later than 5:00 p.m. on December 9, 1977. Any person who fails to file a timely notice will not be permitted to offer oral views, comments, data or arguments on December 13, 1977 except as time permits.

In lieu of offering oral testimony on December 13, 1977, or as a supplement to that oral testimony, any interested person may submit in writing his or her views, comments, data or arguments concerning the promulgation of this proposed ARTICLE XV of the Rules and Regulations, Office of the Commissioner of Savings and Loan Associations, to the Commissioner of Savings and Loan Associations. Written submissions may be filed in person or by mail with the Commissioner of Savings and Loan Associations, either at the State of Illinois Building, 160 North La Salle Street, Room 526, Chicago, Illinois 60601 or at 701 State Office Building, Springfield, Illinois 62706. No written submission will be considered by the Commissioner unless it is received prior to 5:00 p.m. on December 13, 1977.

The Commissioner will fully consider all oral and written submissions meeting the above requirements before adopting, issuing and filing the final text of the proposed ARTICLE XV of the Rules and Regulations of the Office of the Commissioner of Savings and Loan Associations with the Secretary of State on January 6, 1978.

ARTICLE XV of the Rules and Regulations, Office of the Commissioner of Savings and Loan Associations, as issued, adopted and filed will take effect on January 16, 1978.

COMPLETE TEXT OF PROPOSED ARTICLE XV,  
RULES AND REGULATIONS, OFFICE OF THE  
COMMISSIONER OF SAVINGS AND LOAN  
ASSOCIATIONS, FOLLOWS HEREAFTER:

## ARTICLE XV

Pursuant to Section 5(g) of "AN ACT to provide for the regulation of mortgage Bankers" (Illinois Revised Statutes, Chapter 16½, Paragraph 601, et seq.), the Commissioner of Savings and Loan Associations, for the purpose of implementing said Act, hereby establishes the following Article XV.

Except as otherwise hereinafter indicated, the effective date of this Article XV is January 16, 1978 as having been originally established and filed with the Secretary of State, State of Illinois on January 6, 1978 pursuant to the Administrative Procedure Act (Illinois Revised Statutes, Chapter 127, Paragraph 1001), as amended.

Section 1. Definitions) As used in this Article XV, unless the context clearly otherwise requires, and incorporating by reference all statutory meanings included in "AN ACT to provide for the regulation of mortgage bankers:"

(A) "Act" means "AN ACT to provide for the regulation of mortgage bankers."

(B) "Affiliated person" means a person as defined in this Section 1 which is owned, controlled or whose business operations are in any manner directed by a mortgage banker operating in the State of Illinois.

(C) "Applicant" means, as applicable, any one or all of the following:

(1) a person who has an application pending before the Commissioner for a license to operate as a mortgage banker;

(2) a person whose application pending before the Commissioner is the subject matter of a hearing before the Commissioner or the Mortgage Banking Board;

(3) a licensee against whom a complaint is the subject of a hearing before the Commissioner or Mortgage Banking Board;

(4) a person whose license has been suspended or revoked for cause by the Commissioner.

(E) "Commissioner" means the Commissioner of Savings and Loan Associations for the State of Illinois, or some person authorized by him to act in his stead.

(F) "Complainant" means an objector.

(G) "Foreclosure proceedings instituted" means a foreclosure proceeding involving a Government-insured mortgage loan wherein benefits from such Government insurance have been paid to the mortgagee or one claiming under the mortgagee.

(H) "Government-insured mortgage loan" means any mortgage loan made on the security of residential real estate insured by the Department of Housing and Urban Development or guaranteed by the Veterans Administration.

(I) "Hearing Officer" means the presiding official(s) designated by the Commissioner or Mortgage Banking Board to conduct a hearing or anyone designated by the Commissioner or the Mortgage Banking Board to hear evidence; means any member of a panel appointed by the Commissioner or the Mortgage Banking Board to conduct a hearing.



(J) "Home mortgage" means a loan secured by residential real estate situated in the State of Illinois.

(K) "Illinois Residential Foreclosure Rate" means the foreclosure rate of a particular licensee as determined in accordance with Section 5 of this Article XV.

(L) "Licensee" means one licensed pursuant to the terms of the Act and this Article XV.

(M) "Mortgage banker" means that person included by the terms of the Act as being required to become a licensee under the Act.

(N) "Mortgage Banking Board" means the Mortgage Banking Board as created by the Act.

(O) "National Residential Mortgage Foreclosure Rate" means the number of foreclosure proceedings on Government-insured mortgage loans instituted in the United States during the five calendar years immediately preceding the determination of the National Residential Mortgage Foreclosure Rate, divided by the number of Government-insured mortgage loans originated in the United States during the five calendar years immediately preceding the determination of the National Residential Mortgage Foreclosure Rate.

(P) "Notice" means the notice prescribed by the Act or as prescribed by this Article XV, as applicable.

(Q) "Objector" means a person who is on record as objecting to an application pending before the Commissioner which is the subject matter of a hearing before the Commissioner or the Mortgage Banking Board; or a person who is on record as objecting to business practices or conduct of a licensee, which may or may not include a member of the public questioning specific practices or specific conduct of a licensee.

(R) "Originated" means, for purposes of this Article XV and the Act, a Government-insured mortgage loan granted by or purchased by the licensee which loan at the date of making any necessary filings required by the Act remains in the loan portfolio of the licensee, or in the loan portfolio of an affiliated person of the licensee, or upon which a licensee has not released its service obligation, but includes those Government-insured mortgage loans on which foreclosure proceedings have been instituted during stated reporting periods by the licensee.

(S) "Party" means a person named in a pleading or affected by a judgment.

(T) "Payments" means payments of all or any of the following: principal, interest and expenses of all kinds.

(U) "Person" means an individual, partnership, joint venture, trust, estate, unincorporated association or corporation.

(V) "Residential real estate" means any single-family residence or multiple-dwelling structure containing four or less single-dwelling units for four or less family units, living independently of each other, or any single-family condominium unit.

(W) "Statewide Maximum Foreclosure Rate" means the multiple of the National Residential Mortgage Foreclosure Rate as described at Section 7 of this Article XV.

Section 2. Applicability.) All mortgage bankers as defined in the Act must make application for a license to operate as a mortgage banker in accordance with the terms of this Article XV.

Section 3. License Fees.) Payment of a license fee in the amount of Five Hundred Dollars (\$500) must accompany each application for a license to operate as a mortgage banker. Check for such fee should be made payable to "Commissioner of Savings and Loan Associations."

Section 4. Application Form.) Application for a license to operate as a mortgage banker must be made annually on the following form, which form must be obtained from the Agency. The application must be executed by the owner if the applicant/licensee is a sole proprietorship; by all partners if the applicant/licensee is a partnership; by two officers or all directors if the applicant/licensee is a corporation; or by all members if the applicant/licensee is an association. The application must be filed no later than February 1, 1978 and by February 1 of every year thereafter with the Office of the Commissioner of Savings and Loan Associations, 160 North La Salle Street, Chicago IL 60601. The statements contained in the application must be accurate as of the date of the execution of the application form.

1. FULL LEGAL NAME OF APPLICANT/LICENSEE \_\_\_\_\_  
\_\_\_\_\_
2. ADDRESS OF HOME OFFICE OF APPLICANT/LICENSEE \_\_\_\_\_  
\_\_\_\_\_
3. ADDRESS(ES) OF FULL-SERVICE OFFICE(S) LOCATED IN ILLINOIS IF DIFFERENT FROM ITEM 2 ABOVE \_\_\_\_\_  
\_\_\_\_\_
4. DESCRIPTION OF FULL-SERVICE OFFICE(S) [INCLUDING BUT NOT LIMITED TO HOURS OF OPERATION, NUMBER OF PERSONS EMPLOYED SPECIFYING WHETHER FULL-TIME OR PART-TIME AND NUMBER OF HOURS IF PART-TIME] \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
5. NAME(S) OF PERSON(S) MANAGING SUCH OFFICE(S) \_\_\_\_\_  
\_\_\_\_\_
6. IF APPLICANT/LICENSEE IS A PERSON OTHER THAN AN INDIVIDUAL, LIST ALL OFFICERS, DIRECTORS, SHAREHOLDERS, PARTNERS OR MEMBERS (AS APPLICABLE), INCLUDING FULL NAME AND TITLE OF EACH \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
7. LIST THE TITLE(S) AND CASE NUMBER(S) OF ALL PENDING LITIGATION FILED IN THE STATE OF ILLINOIS INVOLVING THE APPLICANT/LICENSEE OR ANY ONE OR MORE OF ITS DIRECTORS, SHAREHOLDERS, PARTNERS OR MEMBERS (AS APPLICABLE) WITH RESPECT TO THE OPERATION OF A MORTGAGE BANKING BUSINESS, BUT NOT INCLUDING FORECLOSURE PROCEEDINGS. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



## [APPLICATION FORM, continued]

8. ILLINOIS RESIDENTIAL FORECLOSURE RATE OF APPLICANT/LICENSEE (COMPUTED AS REQUIRED AND IN ACCORDANCE WITH SECTION 5 OF ARTICLE XV OF THE RULES AND REGULATIONS OF THE COMMISSIONER OF SAVINGS AND LOAN ASSOCIATIONS).
9. UNDER PENALTY OF PERJURY, I (WE) STATE THAT ALL OF THE FOREGOING IS TRUE AND CORRECT TO THE BEST OF MY (OUR) KNOWLEDGE AND FURTHER STATE THAT THE APPLICANT/LICENSEE
- (a) (IF NEW APPLICANT, NOW MAINTAINS) (IF LICENSEE APPLYING FOR RENEWAL, HAS MAINTAINED FOR A MINIMUM OF ONE YEAR) A FULL-SERVICE OFFICE OR PLACE OF BUSINESS IN THE STATE OF ILLINOIS;
  - (b) (IF NEW APPLICANT, NOW MAINTAINS) (IF LICENSEE APPLYING FOR RENEWAL, HAS MAINTAINED FOR A MINIMUM OF ONE YEAR) STAFF REASONABLY ADEQUATE TO HANDLE ALL COMMUNICATIONS, QUESTIONS AND ALL OTHER MATTERS RELATING TO ANY HOME MORTGAGE WITH RESPECT TO WHICH SUCH (APPLICANT WILL BE) (LICENSEE IS) COLLECTING PAYMENTS OR PERFORMING OTHER SERVICES REGARDLESS OF KIND, FOR ANY BORROWER OR LENDER OR NOTE OWNER OR HOLDER OR FOR HIMSELF WHILE ENGAGED IN THE MORTGAGE BANKING BUSINESS;
  - (c) HAS FOR A PERIOD OF 2 YEARS KEPT AND MAINTAINED A WRITTEN RECORD WITH RESPECT TO EACH WRITTEN INQUIRY OR APPLICATION MADE IN PERSON OR BY WRITTEN COMMUNICATION TO SUCH APPLICANT/LICENSEE REGARDING ANY HOME MORTGAGE IN THE COURSE OF THE CONDUCT OF HIS REAL ESTATE BUSINESS;
  - (d) HAS FILED WITH THE COMMISSIONER AND WILL FILE WITH THE COMMISSIONER WHEN DUE ANY REPORT OR REPORTS WHICH HE IS REQUIRED TO FILE UNDER THE PROVISIONS OF "AN ACT TO PROVIDE FOR THE REGULATION OF MORTGAGE BANKERS" (ACT) AND ARTICLE XV OF THE RULES AND REGULATION OF THE COMMISSIONER OF SAVINGS AND LOAN ASSOCIATIONS;
  - (e) HAS NOT ENGAGED WHETHER AS A PRINCIPAL OR AGENT IN THE PRACTICE OF REJECTING APPLICATIONS WITHOUT REASONABLE CAUSE, OR VARYING THE TERMS OR APPLICATION PROCEDURES WITHOUT REASONABLE CAUSE, FOR HOME MORTGAGES ON REAL ESTATE WITHIN ANY SPECIFIC GEOGRAPHIC AREA FROM THE TERMS OR PROCEDURES GENERALLY PROVIDED BY THE APPLICANT/LICENSEE WITHIN OTHER GEOGRAPHIC AREAS OF THE STATE;
  - (f) HAS NOT ENGAGED IN FRAUDULENT HOME MORTGAGE CREDIT UNDERWRITING PRACTICES;
  - (g) HAS NOT MADE PAYMENTS, WHETHER DIRECTLY OR INDIRECTLY, OF ANY KIND TO ANY IN-HOUSE OR FEE APPRAISER OF ANY GOVERNMENT OR PRIVATE MONEY LENDING AGENCY WITH WHICH AN APPLICATION FOR A HOME MORTGAGE HAS BEEN FILED, FOR THE PURPOSE OF INFLUENCING THE INDEPENDENT JUDGMENT OF THE APPRAISER WITH RESPECT TO THE VALUE OF ANY REAL ESTATE WHICH IS TO BE COVERED BY SUCH HOME MORTGAGE;

## [APPLICATION FORM, continued]

(h) HAS NOT ENGAGED IN ANY ACTIVITY INVOLVING THE REJECTION OF AN APPLICATION FOR A HOME MORTGAGE WHICH CONSTITUTES A VIOLATION OF ANY APPLICABLE ANTI-DISCRIMINATION STATUTE;

(i) HAS NOT MADE ANY FALSE PROMISES LIKELY TO INFLUENCE, PERSUADE, OR PURSUED A COURSE OF MISREPRESENTATION OR FALSE PROMISES THROUGH AGENTS OR SOLICITORS, OR ADVERTISING OR OTHERWISE;

(j) HAS NOT MISREPRESENTED, CIRCUMVENTED OR CONCEALED THROUGH WHATEVER SUBTERFUGE OR DEVICE ANY OF THE MATERIAL PARTICULARS OR THE NATURE THEREOF, REGARDING A TRANSACTION TO WHICH HE IS A PARTY, AND OF INJURY TO ANOTHER PARTY THERETO;

(k) HAS DISBURSED FUNDS IN ACCORDANCE WITH HIS AGREEMENTS;

(l) HAS COMMITTED NO CRIME AGAINST THE LAW OF THIS STATE OR ANY OTHER STATE OR OF THE UNITED STATES, INVOLVING MORAL TURPITUDE, OR FRAUDULENT OR DISHONEST DEALING, AND NO FINAL JUDGMENT HAS BEEN ENTERED AGAINST HIM IN A CIVIL ACTION UPON GROUNDS OF FRAUD, MISREPRESENTATION OR DECEIT;

(m) HAS NOT FAILED TO ACCOUNT OR DELIVER TO ANY PERSON ANY PERSONAL PROPERTY SUCH AS MONEY, FUND, DEPOSIT, CHECK, DRAFT, MORTGAGE OR OTHER DOCUMENT, OR THING OF VALUE, WHICH HAS COME INTO HIS HANDS, AND WHICH IS NOT HIS PROPERTY, OR WHICH HE IS NOT IN LAW OR EQUITY ENTITLED TO RETAIN, UNDER THE CIRCUMSTANCES, AND AT THE TIME WHICH HAS BEEN AGREED UPON, OR IS REQUIRED BY LAW, OR, IN THE ABSENCE OF A FIXED TIME, UPON DEMAND OF THE PERSON ENTITLED TO SUCH ACCOUNTING AND DELIVERY;

(n) HAS NOT FAILED TO PLACE, IMMEDIATELY UPON RECEIPT, ANY MONEY, FUND, DEPOSIT, CHECK OR DRAFT, ENTRUSTED TO HIM BY ANY PERSONS DEALING WITH HIM AS A MORTGAGE BANKER, IN ESCROW WITH AN ESCROW AGENT LOCATED AND DOING BUSINESS IN ILLINOIS PURSUANT TO A WRITTEN AGREEMENT, OR, TO DEPOSIT SAID FUNDS IN A TRUST OR ESCROW BANK ACCOUNT MAINTAINED BY HIM WITH SOME BANK LOCATED AND DOING BUSINESS IN ILLINOIS, WHEREIN SAID FUNDS SHALL BE KEPT UNTIL DISBURSEMENT THEREOF IS PROPERLY AUTHORIZED;

(o) HAS COMPLIED WITH ALL PROVISIONS OF THE ACT OR WITH ANY LAWFUL ORDER, RULE OR REGULATION MADE OR ISSUED UNDER THE PROVISIONS OF THE ACT, AND WILL COMPLY WITH ANY OF THE PROVISIONS OF THE ACT OR WITH ANY LAWFUL ORDER, RULE AND REGULATION MADE OR ISSUED PURSUANT TO THE PROVISIONS OF THE ACT;

(p) HAS NOT ENGAGED IN ANY CONDUCT WHICH WOULD BE CAUSE FOR DENIAL OF A LICENSE;

(q) HAS NOT BECOME INSOLVENT; AND

(r) UNDERSTANDS AND AGREES THAT ANY EXCEPTIONS FROM THE FOREGOING REQUIRED STATEMENTS MUST BE EXPLAINED IN FULL BY SWORN AND SUBSCRIBED ADDENDA ATTACHED TO THIS LICENSE APPLICATION.

STATE OF ILLINOIS )

/s/ \_\_\_\_\_

) ss.

COUNTY OF )

Subscribed and sworn to before me this  
\_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

Section 5. Computation of Illinois Residential Foreclosure Rates.) Each licensee is required to include in its application for a license to operate as a mortgage banker the following computation which is that licensee's Illinois Residential Foreclosure Rate on Government-insured mortgage loans:

(A) Add the number of foreclosure proceedings instituted during the five full calendar years immediately preceding the filing of the application for a license to operate as a mortgage banker on Government-insured mortgage loans originated by the licensee during the five full calendar years immediately preceding the filing of the application for a license to operate as a mortgage banker;

(B) Take the total determined by the computation defined in (A) hereinabove and divide that sum by the number of Government-insured mortgage loans originated by the licensee during the five full calendar years immediately preceding the filing of the application for a license to operate as a mortgage banker.

(C) Computations required to be performed by the terms of this section shall be made for an aggregate period as described hereinabove; but for informational purposes shall also reflect a yearly breakdown.

Section 6. Determination of National Residential Mortgage Foreclosure Rate.) On March 1, 1978 and on March 1 of every year following, or as soon as possible thereafter, the Commissioner shall determine the National Residential Mortgage Foreclosure Rate on Government-insured mortgage loans in accordance with the terms of the Act, as enacted or as it may be amended. Such determination will be made based upon documentation obtained from the Department of Housing and Urban Development, from the Veterans Administration and any other source for such information deemed satisfactory or necessary by the Commissioner.

Section 7. Determination of Statewide Maximum Foreclosure Rate.) The Statewide Maximum Foreclosure rate on Government-insured mortgage loans shall be as follows:

	FACTOR TIMES NATIONAL RESIDENTIAL MORTGAGE FORECLOSURE RATE
1978	2x
1979	1.5 x
1980	1.25 x
1981 and all subsequent years to be equal to the National Residential Mortgage Foreclosure Rate.	



Section 8. Administrative Hearing Procedures.) Whenever the Commissioner or the Mortgage Banking Board conducts a hearing, such hearing shall be conducted in conformance with the following:

(A) Applicability: This section shall apply to all hearings conducted under the jurisdiction of the Commissioner or the Mortgage Banking Board pursuant to the terms of the Act as defined at Section 1(A) of this Article XV.

(B) Filing: Documents and requests permitted or required to be filed with the Commissioner or Mortgage Banking Board in connection with a hearing shall be addressed in accordance with the provision of Section 8(C)(3) of this Article XV and mailed or delivered to the Office of the Commissioner of Savings and Loan Associations, 160 North La Salle Street, Chicago IL 60601, in triplicate. The office of the Agency is open for filing and inspection and copying of public documents from 9:00 a.m. to 4:30 p.m., Monday through Friday, except on National and State legal holidays.

(C) Form of Documents:

(1) Documents shall clearly show the title of the proceedings in connection with which they are filed;

(2) Except as otherwise provided, 3 copies of all documents including notices, motions and petitions, shall be filed with the Commissioner of the Mortgage Banking Board;

(3) Any filing required to be made pursuant to the terms of this section with the Mortgage Banking Board or with the Commissioner shall be properly addressed to either the Mortgage Banking Board or the Commissioner, whichever is conducting the proceedings for which such filing is being made;

(4) Documents shall be typewritten or reproduced from typewritten copy on letter or legal size white paper; and

(5) One copy of each document filed shall be signed by the party or by his authorized representative.

(D) Computation of Time: Computation of any period of time prescribed by this section shall begin with the first business day following the date of filing of the documentation with the Commissioner or Mortgage Banking Board pursuant to Section 8(B) of this Article XV, and shall run until the end of the last day, or the next following business day if the last day is a Saturday, Sunday or legal holiday. Where the period of time is five days or less, Saturdays, Sundays and legal holidays shall be excluded in the computation of time. Notice requirements shall be construed to mean notice received, but proof that notice was dispatched by means reasonably calculated to be received by the prescribed date shall be prima facie proof that notice was timely received.

(E) Appearances:

(1) Any person entitled to participate in proceedings may appear as follows:

(a) A natural person may appear in his own behalf or by an attorney at law licensed to practice in the State of Illinois, or both;

(b) An association or other business, nonprofit or government organization may appear by any bona fide officer, employee or representative, or may be represented by an attorney licensed to practice in the State of Illinois, or both.

(2) An attorney appearing in a representative capacity shall file a written notice of appearance.

(F) Notice of Hearing: All administrative hearings shall be initiated by the issuance by the Commissioner or Mortgage Banking Board of a written Notice of Hearing, which shall be served upon all known parties to the hearing.

(G) Service of the Notice of Hearing: Service shall be complete when the Notice of Hearing is served in person or deposited in the United States mail, postage prepaid, registered or certified, addressed to the last known address of the person(s), partnership(s), association(s) or corporation(s) involved, not less than 10 days before the date designated for the hearing.

(H) Motion and Answer:

(1) Any party receiving a Notice of Hearing may file an answer not later than five days prior to the date of hearing. All answers or motions preliminary to a hearing shall be presented to the Commissioner or Mortgage Banking Board and to the Hearing Officer at least five days prior to the date of the hearing, or on such other date as the Hearing Officer shall designate and shall be served personally or by registered or certified United States mail.

(2) Unless made orally on the record during a hearing, or unless the Hearing Officer directs otherwise, an answer or a motion shall be in writing and shall be accompanied by any affidavits or other evidence relied upon and, as appropriate, by a proposed order. At least two copies of all such motions shall be filed with the Commissioner or Mortgage Banking Board and one copy with the Hearing Officer, and at least one copy served on each additional party, if any, to the hearing.

(3) Within five days after service of a written motion, or such other period as the Hearing Officer may prescribe, a party may file a response in support of or in opposition to the motion, accompanied by affidavits or other evidence. If no response is filed, the parties shall be deemed to have waived objection to the granting of the motion. The moving party shall have no right to reply, except as permitted by the Hearing Officer.

(4) No oral argument will be heard on a motion, unless the Hearing Officer directs otherwise. A written brief may be filed with a motion or an answer to a motion, stating the arguments and authorities relied upon.

(5) A written motion will be disposed of by written order and on notice to all parties.

(6) The Hearing Officer shall rule upon all motions, except that he shall have no authority to dismiss or decide a hearing on the merits without granting all parties to the proceeding a right to be heard and to establish a record.

(7) Unless otherwise ordered, the filing of an answer or motion shall not stay the proceeding or extend the time for the performance of any act.

(8) A party may participate in the proceedings without forfeiting any jurisdictional objection, if such objection is raised at or before the time the party files his answer or motion, or, if no answer or motion is made, before the commencement of the hearing.



(I) Consolidation and Severance of Matters—Additional Parties: In the interest of convenient, expeditious and complete determination of matters, the Hearing Officer may consolidate or sever hearing proceedings involving any number of parties, and may order additional parties to be brought in.

(J) Intervention:

(1) Upon timely written application, the Hearing Officer may permit any party to intervene in a hearing proceeding, subject to the necessity for conducting an orderly and expeditious hearing, when either of the following conditions is met:

(a) When the party is so situated that he may be adversely affected by a final order arising from the hearing; or

(b) When a party's circumstances and the hearing proceeding have a question of law or fact in common.

(2) Two copies of a petition for intervention shall be filed with the Commissioner or Mortgage Banking Board and one copy shall be filed with the Hearing Officer, and one copy served on each party, no later than 48 hours prior to the date set for hearing of the matters set forth in the Notice of Hearing. The Hearing Officer may permit later intervention when there is good cause for the delay.

(3) An intervenor shall have all the rights of an original party, except that the Hearing Officer may, in his Order allowing intervention, provide that the Applicant and Objector shall not raise issues which might more properly have been raised at an earlier stage of the proceeding, that the Applicant and Objector shall not raise new issues or add new parties, or that in other respects the Applicant and Objector shall not interfere with the control of the hearing, as justice and the avoidance of undue delay may require.

(K) Postponement or Continuance of Hearing: A hearing may be postponed or continued for due cause by the Commissioner or Mortgage Banking Board or the Hearing Officer upon their own motion or upon motion of a party to the hearing; such motion of the party shall set forth facts attesting that the request for continuance is not for the purposes of delay. Notice of any postponement or continuance shall be given in writing to all parties to the hearing within a reasonable time in advance of the previously scheduled hearing date. All parties involved in a hearing shall attempt to avoid undue delay caused by repetitive postponements or continuances so that the subject matter of the hearing may be resolved expeditiously.

(L) Authority of Hearing Officer: The Hearing Officer has the authority to conduct a hearing, take all necessary action to avoid delay, maintain order and insure the development of a clear and complete record. He shall have all powers necessary to conduct a hearing including the power to:

(1) Administer oaths and affirmations;

(2) Regulate the course of hearings, set the time and place for continued hearings, fix times for filing of documents, provide for the taking of testimony by deposition if necessary and generally conduct the proceedings according to generally recognized administrative law and this Section 8 of this Article XV;



- (3) Examine witnesses and direct witnesses to testify, limit the number of times any witness may testify, limit repetitious or cumulative testimony and set reasonable limits on the amount of time each witness may testify;
- (4) Rule upon offers of proof and receive relevant evidence;
- (5) Sign and issue subpoenas that require attendance, giving testimony and the production of books, papers and other documentary evidence;
- (6) Direct parties to appear and confer for the settlement or simplification of issues, and to otherwise conduct prehearing conferences;
- (7) Dispose of procedural requests or similar matters;
- (8) Render Findings of Fact, Opinions and Recommendations for an Order of the Commissioner;
- (9) Render Findings of Fact, Opinions and Recommendations for consideration by the Mortgage Banking Board;
- (10) Enter any Order that further carries out the purpose of this section; and
- (11) At his discretion, accept probative, relevant evidence from any entity.

(M) Bias or Disqualification of Hearing Officer:

(1) Any interested party may file a timely and sufficient affidavit setting forth allegations of personal bias, prejudice or disqualification of a presiding Hearing Officer. The Commissioner or Mortgage Banking Board shall determine this issue as part of the record of the case. When a Hearing Officer is disqualified, or it becomes impractical for him to continue, another Hearing Officer may be assigned, unless it is further shown that substantial bias or prejudice will result from the assignment.

(2) The Hearing Officer may at any time voluntarily disqualify himself.

(N) Prehearing Conferences:

(1) Upon written notice by the Hearing Officer in any proceeding, or upon written request by any party, the Hearing Officer may direct parties or their attorneys to appear at a specified time and place for a conference, prior to or during the course of hearing, for the purpose of formulating issues and considering:

- (a) The simplification of issues;
- (b) The necessity or desirability of amending the pleadings for the purpose of clarification, amplification or limitation;
- (c) The possibility of making admissions of certain averments of fact or stipulations concerning the use by either or both parties of matters of public record to avoid unnecessary introduction of proof;
- (d) The limitation of the number of witnesses;
- (e) The propriety of prior mutual exchange between or among the parties of prepared testimony and exhibits; and
- (f) Such other matters as may aid in the simplification of the evidence and disposition of the proceeding.

(2) Opportunity shall be afforded all parties to be represented by legal counsel and to dispose of the case by stipulation, agreed settlement or consent order, unless otherwise precluded by law. Any stipulation, agreed settlement, or consent order reached before a final determination by the Commissioner, shall be submitted in writing to the Hearing Officer and shall be submitted in writing to the Hearing Officer and shall become effective only if approved by the Hearing Officer and by the Commissioner.

(3) Only if all parties to a controversy agree, a record of the prehearing conference shall be kept. It must be certified to by the parties, then filed with the case material in the files of the Commissioner or Mortgage Banking Board.

(O) Discovery:

(1) The following discovery procedures may be ordered by the Hearing Officer upon the written request of any party where necessary to expedite the proceedings, to ensure a clear or concise record, to ensure a fair opportunity to prepare for the hearing, or to avoid surprise at the hearing:

- (a) Production of documents or things;
- (b) Depositions;
- (c) Interrogatories.

(2) The Hearing Officer may order the following discovery upon written request of any party:

- (a) List of persons who may have knowledge of facts concerning the subjects of inquiry at the hearing;
- (b) Reasonable inspection of books, records and documents by experts.

(3) Any person, including a party, who is deposed, interrogated or required to submit documents or things under this section may be examined regarding any matter, not privileged, which is relevant to the subject matter of the hearing, or which may lead to the discovery of such relevant information.

(4) All depositions and interrogatories taken pursuant to this section shall be for purposes of discovery only, except as herein provided. Such depositions and interrogatories may be used for purposes of impeachment and as admissions of the deposed or interrogated party. Upon application to the Hearing Officer either before or after the taking of such deposition or interrogatories and upon a showing that at the time of the hearing, the party deposed or interrogated will not be available to participate in the hearing because of death, age, sickness, infirmity, absence from the country or other exceptional circumstances, the Hearing Officer may order that the deposition or interrogatories be used as evidence in the hearing.

(P) Subpoenas:

(1) Upon application to the Hearing Officer by any party, the Hearing Officer may issue a subpoena for attendance at deposition or hearing, which may include a command to produce books, papers, documents or tangible things designated therein and reasonably necessary to resolution of the matter under consideration, subject to the limitations on discovery prescribed by this section.

(2) Every subpoena shall state the title of the action and shall command each person to whom it is directed to attend and give testimony at the time and place therein specified.

(3) The Hearing Officer, the Commissioner or the Mortgage Banking Board, upon motion made promptly and in any event at or before the time specified in the subpoena for compliance therewith, may quash or modify the subpoena if it is unreasonable and oppressive.

(Q) Conduct of the Hearing:

(1) All hearings shall be public, unless required by statute to be otherwise. Any person may submit written statements relevant to the subject matter of the hearing. Any person submitting such a statement shall be subject to cross-examination by any party. If such person is not available for cross-examination upon timely request, the written statement shall be stricken from the record. The Hearing Officer may take evidence from any person whether or not such person is a party to the proceedings.

(2) The following shall be the order of proceedings of all hearings, subject to modification by the Hearing Officer for good cause:

(a) Presentation, argument and disposition of motions preliminary to a hearing on the merits of the matters raised in the Notice or Answer;

(b) Presentation of opening statement;

(c) Applicant's case in chief;

(d) Objector's case in chief;

(e) Applicant's case in rebuttal;

(f) Statements from interested citizens, if authorized by the Hearing Officer;

(g) Objector's closing statement;

(h) Applicant's closing statement;

(i) Presentation and argument of all motions prior to final order;

(j) Presentation of written briefs pursuant to paragraph (W) hereof;

(k) Filing of proposed Findings of Fact and Conclusions of Law upon Order of the Hearing Officer.

(R) Default: Failure of a party to appear on the date set for hearing, or failure to proceed as ordered by the Hearing Officer, shall constitute a default. The Hearing Officer shall thereupon enter such Findings, Opinions and Recommendations as is appropriate under the pleadings and such evidence as he shall receive into the record.

(S) Evidence:

(1) The Hearing Officer shall receive evidence which is admissible under the law of the Rules of Evidence of Illinois pertaining to civil actions. In addition, the Hearing Officer may receive material, relevant evidence, which would be relied upon by a reasonably prudent person in the conduct of serious affairs, which is reasonably reliable and reasonably necessary to resolution of the issue for which it is offered; provided that the rules relating to privileged communications and privileged topics shall be observed.



(2) The Hearing Officer shall exclude immaterial, irrelevant and repetitious evidence.

(3) When the admissibility of disputed evidence depends upon an arguable interpretation of substantive law, the Hearing Officer shall admit such evidence.

(4) A party may conduct examinations or cross-examinations without rigid adherence to formal rules of evidence, provided the examination or cross examination can be shown to be necessary and pertinent to a full and fair disclosure of the subject matter of the hearing.

(T) Official Notice: Official notice may be taken of all facts of which judicial notice may be taken and of other facts, of a technical nature, within the specialized knowledge and experience of the Commissioner or the Mortgage Banking Board.

(U) Hostile Witnesses:

(1) If the Hearing Officer determines that a witness is hostile or unwilling, he may be examined by the party calling him as if under cross examination.

(2) The party calling an occurrence witness, upon the showing that he called the witness in good faith and is surprised by his testimony, may impeach the witness by proof of prior inconsistent statements.

(V) Transcription of Proceedings:

(1) Oral proceedings at which evidence is presented shall be recorded either by a certified court reporter or a mechanical recording device. Any transcription will be retained through and including the time allotted for appeal, revision, rehearing or other manner of review prior to final disposition as provided for by the Commissioner, or by law.

(2) The transcript and the record offered in connection with the hearing shall constitute the official record.

(3) The record in an administrative hearing shall include:

- (a) Prehearing records;
- (b) All pleadings (including all Notices and Answers, motions, briefs and rulings);
- (c) Evidence received;
- (d) A statement of matters officially noticed;
- (e) Offers of proof, objections and rulings;
- (f) Findings, Opinions and Recommendations of the Hearing Officer;
- (g) Findings, Opinions and Recommendations of the Mortgage Banking Board.

(W) Briefs: The parties may submit written briefs to the Hearing Officer within ten days after the close of the hearing, or such other reasonable time as the Hearing Officer shall determine consistent with the Commissioner's responsibility for expeditious decision.

(X) Hearing Officer's Findings, Opinions and Recommendations:

(1) The Hearing Officer's Findings, Opinions and Recommendations shall be in writing and shall include Findings of Fact and Conclusions of Law, or Opinions separately stated when possible. Findings of Fact shall be based exclusively on the evidence presented at the hearing or known to all parties, including matters officially noticed. Findings of Fact, if set forth in statutory language, shall be accompanied by a statement of the underlying supporting facts. If a party submits proposed Findings of Fact which may control the decision or order, the decision or order shall include a ruling upon each proposed finding. Each Conclusion of Law shall be supported by authority or reasoned opinion. A decision or order shall not be made except upon consideration of the record as a whole or such portion thereof as may be supported by competent material and substantial evidence.

(2) The Hearing Officer shall then submit his Findings, Opinions and Recommendations to the Commissioner or Mortgage Banking Board.

(Y) Mortgage Banking Board's Findings, Opinions and Recommendations:

The Mortgage Banking Board's Findings, Opinions and Recommendations relative to the subject matter of a hearing held pursuant to the terms of this section shall be in a form which is consistent with that form prescribed in paragraph (X) of this section.

(Z) Order of the Commissioner:

(1) The Commissioner shall review the Mortgage Banking Board's or the Hearing Officer's Findings, Opinions and Recommendations and shall issue an Order as set forth by applicable statutes or within a reasonable time.

(2) The decision in the case will become effective immediately upon the execution of a written Order, or as otherwise specified by either the Order or applicable statute.

(3) Parties shall be immediately notified either personally or by mail, postage prepaid, certified or registered, addressed to the last known address of the person, partnership, association or corporation involved, of the Order. A copy of the Order shall be delivered or mailed to each party and to his attorney of record.

(4) The Commissioner, may, as part of his Order, require any party to the proceeding to pay part or all of the costs of the Hearing, including but not limited to: witness fees; court reporter fees; Hearing Officer fees; and the cost of the transcript.

(AA) Rehearings:

(1) Except as otherwise provided by law, and for good cause shown, the Commissioner or the Mortgage Banking Board in his/its discretion, may order a rehearing in a contested case on petition of an interested party.

(2) Where the record of testimony made at the hearing is found by the Mortgage Banking Board in its discretion to be inadequate for purposes of review by the Commissioner, the Mortgage Banking Board may order a reopening of the hearing.

(3) Where the record of testimony made at the hearing is found by the Commissioner to be inadequate for purposes of judicial review, the Commissioner may order a reopening of the hearing.

(4) A motion for a rehearing or a motion for the reopening of a hearing shall be filed within 10 days of the date of mailing of the Commissioner's Order. A rehearing shall be noticed and conducted in the same manner as an original hearing. The evidence received at the rehearing shall be included in the record for the Commissioner's reconsideration and for judicial review. A decision or Order may be amended or vacated after rehearing.

(BB) Costs of Hearing: Each party to the hearing shall be required to pay its pro rata share of expenses including the Hearing Officer, transcript and such other incidental costs as may be authorized by the Hearing Officer, the Commissioner or the Mortgage Banking Board, unless waived by the Commissioner.

#### Section 9. Mortgage Banking Board.)

(A) The Mortgage Banking Board may submit recommendations to the Commissioner in any form which it deems appropriate.

Section 10. Audits.) The Commissioner shall conduct an audit of each licensee or applicant who has an Illinois Residential Foreclosure Rate above the Statewide Maximum Foreclosure Rate, in order to determine whether the Illinois Residential Foreclosure Rate has resulted from practices which deviate from sound and accepted mortgage underwriting practices, including but not limited to credit fraud, appraisal fraud and property inspection fraud. For the purposes of conducting such audit, the Commissioner may:

(A) Require the licensee or applicant to open any books and records necessary to make a determination required by this section;

(B) Accept materials prepared for the United States Department of Housing and Urban Development;

(C) Require that the affairs of the licensee or applicant be examined at the direction of the Commissioner and at the expense of the licensee or applicant by a Certified Public Accountant;

(D) May request any other documentation or data from the licensee or applicant which the Commissioner deems relevant in order to make a determination required to be made under this section.

Section 11. Conduct of Audit at Commissioner's Discretion.) The Commissioner may take any action permitted to be taken at Section 10 of this Article XV whenever the Commissioner determines that a licensee's or an applicant's foreclosure rate on Government-insured mortgage loans is higher than a rate deemed appropriate by the Commissioner.



Section 12. Annual Report of Mortgage Activity.) By March 1, 1978 and by March 1 of every year thereafter, each licensee shall file a REPORT OF MORTGAGE ACTIVITY with the Office of the Commissioner of Savings and Loan Associations on a form which must be obtained from the Agency and which must be filed with the Office of the Commissioner of Savings and Loan Associations, 160 North La Salle Street, Chicago IL 60601

Section 13. Public Review of Documents.) Any person desiring to review the REPORT OF MORTGAGE ACTIVITY filed annually by any licensee may appear in person at the Office of the Commissioner of Savings and Loan Associations, 160 North La Salle Street, Chicago, Illinois during the hours of 9:00 a.m. and 4:30 p.m., Monday through Friday, except on National and State legal holidays. Copies of a licensee's annual REPORT OF MORTGAGE ACTIVITY will be provided to a person requesting such, upon payment of a fee of Ten Cents (10¢) per page.





ALAN J. DIXON  
Secretary of State

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